

**Summary Minutes
City of Sedona
Planning & Zoning Commission Work Session
Vultee Conference Room, Sedona City Hall
106 Roadrunner Dr., Sedona, Arizona
Thursday, May 30, 2013 - 3:30 p.m.**

1. Verification of Notice, Call to Order, and Roll Call. (5 minutes; 3:30 – 3:35)

Chairman Losoff verified notice and called the work session to order at 3:30 p.m.

Roll Call:

Planning & Zoning Commissioners: Chairman Marty Losoff and Commissioners Eric Brandt, John Currivan, Michael Hadley Scott Jablow, Geoffrey Messer and Norm Taylor

Staff: Audree Juhlin, Cari Meyer, Donna Puckett, Ron Ramsey and Kevin Snyder

Council Liaison: Councilor Mike Ward

2. Nomination and Election of Chairman and Vice Chairman. (5 minutes; 3:35-3:40)

Marty Losoff opened the nominations for the Chairman.

Commissioner Hadley indicated that it is appropriate, given our change in staff and with the Community Plan coming of age that Marty Losoff continue, if he is agreeable, and seeing Marty nod yes . . .

Nominations for Chairman:

Commissioner Hadley nominated Marty Losoff for Chairman. Commissioner Brandt seconded the nomination.

Commissioner Taylor nominated Commissioner Hadley who respectfully declined based on the time commitment, especially with the Community Plan.

Commissioner Taylor nominated Commissioner Brandt who declined the nomination.

Commissioner Taylor nominated Commissioner Messer who declined the nomination.

Marty Losoff closed the nominations for Chairman and asked for a vote on the nomination of Marty Losoff for Chairman.

Vote: Motion carried seven (7) for and zero (0) opposed.

Chairman Losoff opened the nominations for Vice Chairman.

Nominations for Vice Chairman:

Commissioner Brandt nominated Commissioner Hadley for Vice Chairman. Commissioner Messer seconded the nomination.

Chairman Losoff asked Commissioner Hadley if he would accept the nomination and Commissioner Hadley indicated that assuming the Chairman will be around most of the time, which the Chairman is, because he (Commissioner Hadley) is gone quite frequently, he thinks he can do that and would be happy to do it.

Hearing no other nominations, the Chairman closed the nominations for Vice Chairman.

Vote: Motion carried seven (7) for and zero (0) opposed.

3. Discussion regarding Agenda Item #5 for the regularly scheduled meeting of Tuesday, June 4, 2013: (45 minutes 3:40 – 4:25 pm)

- A. Discussion regarding a request for Conceptual Review of a Plat Amendment, Amendment to a Planned Development, and Development Review to construct a new sales office, on-site parking, and associated site improvements for the Wyndham Time Shares in an area previously approved for 10 apartment units at 1700 Kestrel Circle. The project was originally approved in 1999 under the name Fairfield Sedona. It is zoned Planned Development (PD). A general description of the area affected includes but is not necessarily limited to The entire PD is approximately 21.95 acres. The development has been divided into separate tracts and the subject tract is approximately 3.78 acres and is further identified as Assessor's Parcel Number is 408-28-362A. Applicant: Sanjo Investments, Ernie Farhat, 5840 Uplander Way, Suite 100; Culver City, CA 90230 Case Number: PZ13-00006 (SUB, ZC, DEV) Staff: Cari Meyer, Associate Planner**

Background:

Chairman Losoff pointed out that this is a work session, so the Commission is here to ask questions to understand the request and the Commission has had a site visit, although there is more information now. At the Chairman's request Ernie Farhat, Applicant, and Luke Sefton, Engineer, introduced themselves.

Commissioner Brandt asked if staff is going to do a presentation today and Cari Meyer explained that she is prepared to answer questions and the Staff Report addresses a number of staff's concerns, but she can talk through some of that.

Chairman Losoff requested that Cari provide a brief history of what has happened in the past and Cari explained that this project originally went through the process in 1997 and was approved in 1998 under the name of Fairfield. It was designed as a Planned Development (PD) with a commercial property along S.R. 89A and about a 20-acre piece that was previously a residential district further back from the highway that was designed as a timeshare, apartment and single-family development on the residential portion, along with a sales office and some other site improvements on the commercial portion along the highway.

Cari indicated that the whole piece of approximately 22 acres is designated Planned Development (PD) and originally it was done under Fairfield; however, Wyndham has since taken over the development and Fairfield did the original project, but since then it has been split off, so the 16 single-family lots have been sold and are currently being developed as single-family homes, and they are going through the process -- about half of them have been built and a number of them are under construction. The apartment portion of the project was also split off and sold to the applicant, and then Wyndham is managing the timeshares and the commercial portion along the highway was always owned by a separate party, so Fairfield is gone.

The Chairman stated that there are then three pies and Cari summarized the sales office, timeshares, apartments and single-family are all owned by separate entities now. Audree Juhlin added for clarification that they are still controlled under the PRD approved in 1998.

Cari Meyer noted that there is a Development Agreement, PD and plat map, etc., associated with the original approval, all of which staff is looking at. As part of this application, the applicant has submitted an application to amend the PD and other documents, including the Development Agreement and the plat map, to move the sales office from along the highway to essentially replace one of the apartment buildings originally approved. There were originally six apartment buildings approved for a total of 64 units, and they are proposing to remove one of those apartment buildings and redesign the interior of some of the other buildings, so there would be a total of 60 apartment units on the property, instead of the original 64. They would be reducing the number of 3-bedroom units and increasing the number of 1-bedroom units, and then moving the sales office from along S.R. 89A to the location of one . . . Chairman Losoff interjected a question asking if they don't own that office, how they can do that, and Cari explained that they are building a new sales office that would be rented to Wyndham. The

Chairman then asked if the current sales office is vacant and Cari indicated it is owned by a separate party and if Wyndham vacates that office, there is a possibility that the property owner would ask to be removed from the PD and return to a General Commercial zoning. Chairman Losoff asked who would ask that and Cari stated it would come through as a separate Zone Change application.

Chairman Losoff then stated that the office building is now owned by somebody and Wyndham is renting it for the sales office. Cari indicated that is correct and the Chairman then stated that if they vacate their lease or move from there, then there are options for what happens to that building and Cari agreed. Chairman Losoff then asked if staff has had discussions with those owners and Audree Juhlin stated yes; the original property owner since 1998 passed away, and his children inherited that property and they want to sell it. It is encumbered by the Planned Development (PD) Agreement and Development Agreement, and they would like to get out of that agreement, unless Wyndham purchases it, because it would then remain part of the PD. It is kind of contingent upon if Wyndham purchases the property or not; if they don't, then the owners would try to sell it and get out of the PD. The Chairman asked if the Commission doesn't approve this application, would Wyndham be inclined to purchase that and Audree Juhlin stated that she can't speak for Wyndham. Cari added that Wyndham isn't here today, but they will be present on Tuesday.

Cari Meyer then explained that going through the Staff Report, staff identified a number of concerns. First, there being a compatibility issue, and it is her understanding that in negotiating the original development, it was specifically designed to have commercial as far away from the residential as possible and for it to be buffered by the timeshares, the apartments, and then single-family homes. By moving the commercial portion of the project closer to the residential area, it changes a lot of what was originally negotiated. Additionally, this is a PD and the area that they are proposing for it is the multi-family portion of the project. If you look at other multi-family districts, none of them would allow this type of use.

Audree Juhlin explained that staff has concerns with the compatibility of an office commercial space in the middle of a multi-family area. Chairman Losoff stated that one of the objectives of the Commission's work sessions is to look at the big picture to find out if we are going in the right direction and if there are any deal breakers. The Chairman then asked if that is a deal breaker and Audree Juhlin stated that she doesn't know that it is a deal breaker, but staff does have significant concerns about the compatibility of the uses, and going back to the original approved plan in 1998, when we met with the residents to the south, that was one of their biggest concerns. They didn't want a commercial project, so when staff worked with the developer at that time, it was a layering of bufferings, so the highest commercial was on the highway, with the least impact being the single-family that abutted the neighbors, so that was a significant concern then and staff still has the same concern now with a commercial use in the middle of an apartment complex. Staff is not sure that it is appropriate and the other related concern is that because it has been split off, the original PD approval had shared parking, so the whole site had the parking, but now with the splitting off, Mr. Farhat does not have the same ability to have the shared parking, and staff isn't comfortable yet as to if there is enough parking on Mr. Farhat's property to support the office use. Staff understands from Wyndham that they are willing to negotiate some shared parking as long as they occupy that space, but if they no longer occupy that space, that agreement may be off of the table. Cari pointed out that was the letter that was distributed to the Commission and Audree added that staff is concerned that we would then have an office building with no parking.

Chairman Losoff then asked about the decrease in apartments and Audree indicated that is a concern that staff brought up with the applicant, who then increased the number to 60, so there is a net loss of only four units, but again, parking is an issue. Chairman Losoff then indicated that the Development Agreement was negotiated about 15 years ago and asked if staff feels the Commission needs to stick with the 15-year-old agreement or if it is okay to open up some room for changes. Audree Juhlin explained that it can be opened up for changes, but we need

to ensure that what we are talking about is appropriate and meets all of the code requirements as of today.

Cari Meyer indicated that another concern if Wyndham vacated the space is that the letter distributed to the Commission basically states that if Wyndham were to vacate the space, they would rescind the parking agreement as well, so as to the future use of the building, the applicant has stated that it would be used as a recreation facility for the apartments and single-family homes, which would require a change to the Development Agreement as well, because the existing Development Agreement states that the existing recreation area done for the timeshares was to be shared.

Audree Juhlin explained that right now, Mr. Farhat's property has enough parking for the reduced number of 54 apartments, so adding additional space and uses is a concern at the staff level.

Commission's Questions and Comments:

Chairman Losoff asked that if the Commissioners have had any ex parte discussions with the applicant to disclose them when it is their turn to ask questions.

Commissioner Brandt asked if there are any restrictions to the commercial use on the highway building under the PD, and Cari Meyer explained that the current property owner has been told that anything that can be supported by the parking onsite and is allowed in the C-2 zone would be allowed, so there are some parking restrictions, because some of the parking for the original PD is located on that site also, and in looking at this application, staff has looked at parking only on the timeshare-apartment portion. Staff has not considered parking on the commercial portion, because of the uncertainty of what is happening with that site. Currently, there aren't any use restrictions on the commercial portion other than what would be restricted by parking.

Commissioner Brandt indicated that if a blanket parking easement over all of the properties would be part of this, so there are no future issues, it would just all be taken care of at once. He likes the idea of ghost parking; it doesn't seem like it is going to be needed, but then it brings up the question of when is the trigger for someone to say that needs to be done, although parking seems to be the easiest part of this. The Commissioner then indicated that the proposed office space is a commercial space, and if we go along with the 95%, it seems like it is more like a front desk for a hotel than a commercial space; however, Audree clarified it is a timeshare sales office. Commissioner Brandt then noted that they are only selling to 5% of the people who come through, because 95% already have their spaces. People don't just walk up and say they want a timeshare and use it for a week.

Cari Meyer explained that she understands that timeshares offer free nights if you listen to their presentation, so they wouldn't necessarily own one already. Audree Juhlin added that staff needs to clarify the 95%, because as she read that letter, she is not sure that they are actually staying onsite. Mr. Farhat stated that they are; however, Audree explained that staff needs to clarify with Wyndham that 95% are actually staying onsite and not in an offsite hotel.

Chairman Losoff indicated that if they are staying there and they aren't owners, they could be potential clients. The Chairman then asked how many units are actually sold and Audree indicated that most of that is sold out. Mr. Farhat added that they are 100% sold out. They extensively interviewed Wyndham's local personnel and had it concurred by their Senior Vice President of Sales all the way to their Board of Directors, because he didn't want to sit in front of the Commission, if there were any doubts, but 95% of the people that go to the sales office come right now to Wyndham's Welcome Center, they get in golf carts and are bussed up S.R. 89A to the sales office and 95% are guests in that exact resort. Audree Juhlin noted that is what staff needs to verify, because right now, it basically says that 95% check-in for the sales at that check-in location, so staff just wants in writing to clarify from Wyndham that they are not only checking in for the sales tour at that site, but they are also actually staying there overnight and they are patrons of the timeshare units. Mr. Farhat explained that Wyndham has records

by quarter, by year and he looked at them, because he is an Engineer and likes numbers; however, Audree again pointed out that staff has not been able to verify those numbers.

Commissioner Brandt then asked if this commercial use for the timeshares ever ends and Mr. Farhat indicated that Wyndham would have a lease and they (the applicants) would like to do something with the building if Wyndham were to leave. The best thing would be to amend the PD, so that the apartment units, timeshare units, and the single-family residents could have a recreation facility dedicated to them. They would like to turn the building into an indoor swimming pool and gymnasium, so in the winter months, they would have something to use. They (the applicants) are a for-profit organization, so they would charge a fee and they discussed it with the local Wyndham management and with the single-family homeowners at the public meeting, and they were very excited about that idea and would be willing to contribute \$70,000 to build a pool. They need a use what people can walk to, so it would service 60 apartment units, 16 single-family homes and 9 timeshare buildings. The other pool and recreation area there for Wyndham today is outdoors, so in the winter months, he doesn't think it would prove itself. Wyndham would have a 15 year lease and probably 15 years in options, and they (the applicants) told staff that they would try to work out a compatible use or they wouldn't go forward with the application. They believe that is a very good use in the future.

Commissioner Brandt commented that it is not like pure commercial; it can be restricted by the PD and the Commission's action. Audree Juhlin recommended that if this is approved for recommendation by the Commission that it be approved specifically for timeshares for Wyndham and not any other type of commercial use, because there isn't the parking onsite available for any other commercial use. It would need to be tied specifically to this one purpose. Commissioner Brandt then asked if it was to end for Wyndham, staff doesn't want to allow it to go for the recreation building and Audree explained that would not be considered a commercial use, because it would then be an amenity to the apartment units, so the Commission would approve the commercial use for the timeshare sales office, just not the general C-2 or C-1 uses, and when and if Wyndham evacuates that building, it is whatever comes out of this Commission, and as Mr. Farhat is recommending, it would be recreational.

Mr. Farhat stated that they have been in this business for over 30 years and they don't want any other uses there. They have a responsibility to their tenants and they co-manage the streets now. They have easements that run for parking in perpetuity with Wyndham. They are allowed to park anyplace on the PD without restriction, but because that is not a practical application, they have agreements between the parties, that these are our spaces and those are your spaces, but legally they are allowed to park anyplace they want. Those easements have been given to staff and are in your package. They don't want any other uses there if Wyndham leaves. They would like to recapture the building and do a recreational center there. They like the idea that people could walk there and that the tenants could walk there. Their apartment project has taken almost one year just to renovate the one building and have it operating, and the rental market in Sedona was quite a surprise for them from California. They have been able to get good rents and very qualified people only because it is a first-class project and they want to maintain that, so they are pretty fussy about not wanting anybody else to be able to use it, and they don't have the parking, like staff said. They would like that, but that has evolved after the many times staff has helped them.

Commissioner Brandt then asked Cari about it being incompatible with the Development Agreement on page 6 where it indicates that a future use as a recreational center would be incompatible with the Development Agreement. Cari explained that the Development Agreement states that the existing recreational facilities developed for the timeshares were to be shared by all -- the timeshares, apartments and single-family, so the development of a duplicate recreational facility would be incompatible with the requirement that the facilities be shared. The Commissioner asked about the location of the first one and Cari indicated that there is an existing pool and recreational facility that was built for the timeshares. Commissioner Brandt asked if those are used by the apartments now and Audree Juhlin

explained no, but technically the Development Agreement said yes, that amenity is available to the single-family, apartments and timeshares; however, Wyndham has restricted use to only the timeshares and is not allowing the apartments or the single-family units to have access to it. Audree was asked how they are getting away with that, and Audree stated that they are not adhering to the Development Agreement as originally proposed and approved. Commissioner Brandt then indicated that we better get that straightened out.

Chairman Losoff asked if that issue is being addressed and Audree explained that the Development Agreement really trumps and says how the site can be used; however, with what the property owner has sold off, Mr. Farhat has signed away those rights to the amenities, but that doesn't negate the Development Agreement, which still says they have rights. Chairman Losoff then stated that regardless of what the Commission decides on this project, is the City pursuing Wyndham about the fact that they are not allowing . . . Audree explained that the City has not pursued that in any great detail yet, because staff is waiting to see how this unfolds, but it is something that is concerning to staff, and several of the single-family lot owners come to staff and say that the Development Agreement says they have access, so why don't they have access?

Mr. Farhat indicated that the developer signed the same document that all 16 single-family parcels . . . Audree interjected that the Development Agreement is the overall document that says what can and can't be done, so we need to amend the Development Agreement to reflect what the new property owners have agreed to, so they are in alignment. Right now they are not in alignment.

Commissioner Messer asked if staff considers it a boon, even though we have lost six apartments and a majority of them now are 1-bedroom apartments, making it more affordable than two-bedrooms and if that somehow equalizes it in staff's eyes. Audree indicated that it does make a little bit of a difference, but we don't want to lose any apartment stock, although it is not even built, so we don't have it, but the potential for it to be built is a concern. Mr. Farhat did indicate they would increase the number from the original number proposed. Mr. Farhat added from 54 to 60. Audree noted that the 1-bedroom is serving a lower rental income so that is a plus, although we don't want to see any apartments lost. The Commissioner then asked what the increase is in single apartments from before to now, because we are talking about a net loss of four apartments. Cari explained that the original plan had six 3-bedroom units, which are being turned into twelve 1-bedroom units, so the number of 2-bedroom units will remain the same, and there will be no 3-bedroom units, but the number of 1-bedroom units will increase by twelve.

Commissioner Messer then asked if the Commission will have clarification on Tuesday about the 95% and Audree explained that staff has been asking for it for awhile, so hopefully we will. Staff has not been able to meet with Wyndham to get to the detail staff wants; there has been a few letters and conversations, but Tuesday will be staff's first opportunity to have them at the table. Mr. Farhat indicated that Marianne Zeller, Senior Vice President of Real Estate will be attending and Audree added that we can ask for these clarifications then.

Vice Chairman Hadley indicated that something that would be helpful for Tuesday would be to have a copy of the original Conditions of Approval and the Agreement, because we are talking about it and it would be nice to see what it is. Audree Juhlin indicated that staff will email that to the Commission tomorrow.

Vice Chairman Hadley indicated that this seems like a multi-faceted thing, and he then pointed out the three portions on an aerial view -- the commercial portion owned by somebody who wants to sell it, 16 single-family lots and homes, timeshares owned by Wyndham, and Mr. Farhat's property. The Vice Chairman then asked who owns the existing pool and Mr. Farhat replied, Wyndham owns that corporation, but it is Wyndham. Vice Chairman Hadley then indicated that the single-family is sort of out of the picture and if the property on S.R. 89A is

sold, it is going to become whatever, which is a separate issue, and the timeshares are all built and sold, so when people come to the sales office, what are they buying?

Mr. Farhat indicated that he bought a complimentary timeshare and he has gone to at least six orientations, so he could learn about that business. A little of it is kind of negative; they kind of beat you up and make sure you take your wife. The average trip lasts about one hour and it is usually just two people, and they make seven or eight trips a day, so there aren't a huge number of people going in and out of there. They have wonderful promotional things; for example, if Mr. Sefton bought a timeshare, like he bought a complimentary thing and they want to give him a certain number of extra points and charge him a certain amount of money, but now they want to expand how much use you can have by X number of days per year. Their sales staff is very persuasive, as well as Diamond and all of the others. Chairman Losoff asked if it is just selling Sedona timeshares and Mr. Farhat stated no, they are selling timeshares and they all work the same way. It is a point system all over the world; they are not trying to sell Sedona, they sold out long ago, but they want to sell them additional product, so the people that are using Sedona see the beautiful rocks and they are the best people to sell more timeshare. Wyndham also originally said they would need a 4,500 sq. ft. box and they (the applicant) said they would do that; however, after Wyndham's construction people came out they realized that with their new model that is more open with modular furniture and computer presentations, etc., they have increased the footprint to 6,900 sq. ft. and no additional people, so it is a very interesting business.

Vice Chairman Hadley indicated that the site plan says "existing check-in building", so does that mean that people go there to check into the timeshares? Mr. Farhat explained that the check-in building is run like a hotel. Everybody goes there and when they get ready to go to the sales office for the presentation, they assemble to be driven in golf cars up S.R. 89A. Vice Chairman Hadley then stated that there are two functions going, they have to check-in and then go . . . Mr. Farhat interjected that the building that they are proposing is 10 ft. from it, so they would simply walk to it; no more golf carts or transportation, because they are already parked.

Vice Chairman Hadley indicated that it doesn't sound like there is necessarily a cut-off point where the sales office would be closed, because they are selling worldwide, and Mr. Farhat explained that he can't address that; he thinks that is a question for Wyndham. He understands that Sedona made the top 15 in their properties, which tells him it is possible they might be there in perpetuity, and he suggested doing the building by subdividing it and giving them the property, but the Civil Engineer indicated that they couldn't do that, so when they know there is an opportunity to present a building that staff will approve, then Wyndham could do the economics on the property on S.R. 89A and on this. They are such a large corporation that even though he can tell them his numbers, they are going to do their own numbers, so there will be four of them here Tuesday.

Vice Chairman Hadley indicated that the idea of a recreational center has a lot of appeal to him, more so than a perpetual sales office. Mr. Farhat indicated that has a lot of appeal for him also, but the economics are one thing. They would love to have their own recreational facility, but at the same time, they didn't want a commercial use in the middle, the timeshares are bad enough. They have apartment people and it is either Wyndham or they wouldn't like any commercial use. Vice Chairman Hadley asked if the piece on S.R. 89A is for sale, what is to prevent Wyndham from buying it, and Mr. Farhat explained that he made an offer on the property and the owner turned him down; it has been on the market for almost 4½ years. They came to the public meeting with their real estate broker and he made them an offer.

Audree indicated that it is her understanding that Wyndham is looking at purchasing that as one option and at Mr. Farhat's proposal for an office space. They haven't run the numbers to see which one is the best deal for them.

Chairman Losoff asked if that is actually C-1, not C-2, and Audree indicated that she believes it is C-2 on S.R. 89A; however, Commissioner Taylor stated that it is C-1. Cari explained that is what it was originally zoned according to the files. Surrounding properties on either side are C-2 right now. Chairman Losoff then stated that the building with the office right now today on 89A is C-1. Audree Juhlin explained that it is part of the PD, so if it is removed from the PD, it would revert back to its original zoning. The issue with that too is, as part of the original approval, ghost parking was identified on that property for the rest of the property, so we haven't been able to remove the parking from that piece as it relates to the rest of the proposal.

Vice Chairman Hadley indicated that he has an old aerial, because ProBuild is not there, but there is a vacant parcel on the south side of the existing Wyndham office, and he asked if that is still vacant. Mr. Farhat indicated that on S.R. 89A, there originally was an 8-unit timeshare approved there in the PD, and they moved that building T-9 to the center portion of the PD and built almost 40% of the ghost parking there. They had 246 spaces there, so the majority of that has already been built out. Audree Juhlin added that is where the ghost parking is identified.

Vice Chairman Hadley then indicated that to boil it all down, the 16 single-family homes are there and the applicant is not asking for anything . . . the Chairman interrupted to say, except they would like to use the amenities. The Vice Chairman then continued to say that the timeshares are there and the existing check-in building is there, so the Commission is really talking about what was approved as six apartment buildings and is now supposed to be five plus the sales office building and a small rec. center, and then whatever changes that precipitates for the original PD.

Mr. Farhat indicated that he would like to give the Commission a small caveat, a real estate developer never wants to buy a piece of property for X number of dollars and build less units, and he is no exception. The Yavapai County Assessor's Office, for apartment buildings that have a component of their parking as a covered structure, makes you designate the covered structure as part of your parcel, and therefore, they are allowed to give you an evaluation for your taxing purposes. Even though they are allowed to park any place on the PD, the extra parking for the building would have been on the other side of the property line, and it wasn't a problem that they (the applicant) use the parking or build the parking, but it would have reassessed the timeshare property when that was done, so Wyndham's attorneys basically said you can't build just one building of 10 units, and that is how they ended up with a swath to build something, and their (the applicant's) attorneys said to please cancel the transaction, and they tried to cancel it, but they were not successful, so they ended up completing the transaction and building 54 units, and now after staff brought them up-to-speed about apartments in Sedona and more about the community, they learned that the market for 3-bedroom apartments is really not there. Wyndham couldn't do it and they couldn't either, but they needed an affordable component and the studio apartments with central air-conditioning, dishwashers, full amenity stoves, refrigerators, etc., become a very good component, so they were able to add six ghost parking that they will construct, and then they can have all the parking they need for 60 units on their property, so there is no reassessment for Wyndham.

Vice Chairman Hadley indicated he now understands the count, because even though you are adding 1-bedroom units in place of the 3-bedroom units, you are losing the ones that would have been in Building 6 and the Mr. Farhat stated that is right, he lost the whole building.

Chairman Losoff asked if there are any incentives with the applicant regarding affordable housing units or in lieu of and Cari indicated that staff suggested that they look at ways to offset the loss, when they were losing 10 apartments, either through the redesign of the buildings or deed restricting affordable housing, and they chose to do the redesign of the building. There are 2-bedroom apartments and there are two 1-bedroom apartments instead of a 3-bedroom. The 1-bedroom apartments are on a much smaller scale with a smaller living space and the market will set those at a more affordable rate, although she doesn't know what they are renting

for right now. Mr. Farhat indicated that they are between \$800 and \$900 depending on whether or not they have additional storage.

Audree Juhlin added that based on City Council's comments during a recent project, we need to look at the community benefits and if we can secure through dedication affordable units to ensure that they remain affordable, if that is an identified community benefit. Chairman Losoff suggested that for Tuesday's meeting, we should be prepared to define what we think is affordable. When we say affordable housing, what does that mean -- income level, rent level, etc., because it is all over the board in a lot of people's minds. There are regulations, federal and state guidelines for income levels as well as size of the units and rents, so let's have at least a chart or something, so the Commission has a framework.

Mr. Farhat indicated that he had given Kevin Snyder a copy of the document that shows that \$472,000 was paid in 1998 as in lieu of, and he has asked Kevin to look into the possibility of giving them a prorated refund of that and they also built three or four parks. The amount of infrastructure they did for the City of Sedona in 1998 is beyond anything that he has been able to determine has ever been done for the City again, and that will come up should we get into this conversation again.

Audree Juhlin explained that we need to make sure that we are separating this is a new project, and we are considering something that is far greater than was approved, so we need to look at it from that context. One of criticisms staff received in 1998 and still receives today is in recommending approval of that project, we didn't have any deed restrictions to ensure the affordability of those apartments, so that is something we could look at now.

Chairman Losoff agreed that it is interesting to know what occurred in previous years, but this is a new project, and we should take it for what it is worth. Given some of the previous discussions on the last project, let's be prepared to discuss that with facts.

Commissioner Jablow indicated that he understands this is not just about the sales office; it also includes the 16 additional units; however, Cari explained that those are single-family homes that are being constructed through the residential review process, and Audree explained that they are not part of this project; they were approved as part of the original PRD, but they aren't being considered as part of this proposal. Commissioner Jablow then indicated that he is concerned about the parking and he doesn't like the idea of moving commercial into the residential area. People who signed on for this project five years ago did it under the assumption that there would be no commercial development there. It is quiet and peaceful and all residential or timeshares and that is not really what they are going to be getting if they put an office there. Things do change, but it doesn't mean that we have to accept them, so he is not in favor of moving the office into that area.

Chairman Losoff asked Commissioner Jablow if he had an issue if the Commission was going to discuss the residential houses, and Commissioner Jablow indicated yes. He is concerned with how they would affect the existing houses that are on Page Parkway and Roadrunner Road -- the property that they abut. Right now from the backyard of the homes there, they see nothing, whatever they see; there is no construction there, so he would like to know what kind of buffer is planned and how much of a setback there will be. Commissioner Brandt pointed out that is not part of the project and Chairman Losoff stated that he was just curious.

Mr. Farhat indicated that they had a public meeting, and they are rotating a building so the single-family homeowners don't look into the front doors of the apartment building, and by doing that, they addressed that concern. Chairman Losoff then stated that he didn't want to get too far off of the agenda, because the Commission isn't involved with the residential side.

Commissioner Jablow noted that the Commission doesn't get into residential, but for a PD such as this, it is part of the plan. Audree Juhlin explained that in 1997 - 1998, one of staff's biggest

concerns was how we buffered it from the lowest to the highest intensity, so that was a big consideration then.

Commissioner Taylor indicated that the original development was RMH-10 for approximately 80 homes, so when Fairfield negotiated this PD, the agreement was that they would include 80 homes and Audree Juhlin agreed through apartments and single-family. Commissioner Taylor then asked if that is in writing or how do we know that? Audree explained that it was part of the original Conditions of Approval, so the project was approved in 1998 for 16 single-family homes and 64 apartment units to be constructed to equal the 80 total. Cari Meyer added that the reasoning for that is in the original Staff Report. Commissioner Taylor then asked if the Commission has the right to hold them to that and Audree indicated yes. Commissioner Taylor noted that we are now only losing four units, which isn't a big deal, but he wonders about all of these 1-bedroom units, because they are great for a single person or a couple, but not for a person with a child or a person with a home business or hobby. They are really limited with 1-bedroom apartments, because they are really small.

Mr. Farhat indicated that they are probably around 700 sq. ft. and there is a need for those apartments, because if you look at the demographics of the employment population in Sedona, you find that the closest suitable housing for them is in Cottonwood and at \$3.50 for a gallon of gas and 30 minutes back and forth, we are finding that the people renting those are generally service employees in the businesses here. They are providing a better product that is better than anything they can find down there, and they are just now three months into their rental process, so as he gets more experience, he will be able to give the Commission better demographics.

Commissioner Taylor indicated that you have to look at the difference between the commute and rent here versus Cottonwood. Mr. Farhat added, and the quality of the building. If you look at apartments in Sedona and the quality of the area and construction versus what is available here, some of the available places in lower rental areas are really not very suitable, and also in Cottonwood. What would be great would be if the City of Sedona appointed a committee that would give a developer some incentives from the federal government to build some first-class subsidized housing. Then, you could meet your quotas and do those things, but no one in today's economy . . . With the difficulty in getting financing for construction, the banks won't give them a construction loan until they provide six months of operating data. They aren't suffering so that isn't the issue; the issue is that it is tough.

Commissioner Taylor indicated that a lot has been said about bringing the commercial aspect of the project into the center, and he sees that as a big problem. He doesn't like having a commercial operation in the middle of the housing area, but if Wyndham decides to pull out of that building, then what would happen to that building -- a recreation center? He doesn't see how the apartments and timeshares, if you could get an agreement with Wyndham as the owner of the timeshares, could maintain a recreation building for that number of units.

Mr. Farhat stated that they would. A good part about that is that the building would be constructed and Wyndham would lease it, and if they move out of there, that building is paid for, so they would remodel the building, and they would like to have a restriction to either tear down that building and give them back the virgin land or use it for a recreation center and the people would walk there. They want to stay in league with the City; they are not trying to buck the City. Commissioner Taylor indicated that from what he has seen and heard on P&Z, he doesn't see that as realistic, no matter what is put on paper. We've already had an indication that Wyndham is a corporation that isn't a first rate outfit. Their timeshares are really tough; he made the mistake of going into Fairfield on the east coast and by the end of the day, he had to get a drink.

Audree Juhlin explained that in the conversations with Mr. Farhat, he indicated that if he goes through this process and Wyndham is not going to use that space, he is not going to construct

the building, so he is moving forward only if Wyndham commits to using that space, if it is approved. Commissioner Messer noted that they are still on the fence.

Commissioner Currivan asked how long they have to use it and Audree noted that Wyndham has to be at the table to answer those questions. Mr. Farhat indicated that they have given Wyndham a draft lease for 15 years and 15 years in options.

Chairman Losoff asked if the applicant has thought about, rather than putting the recreation center in the building on S.R. 89A, put it all in the middle and leave the S.R. 89A site commercial. Mr. Farhat explained that is Wyndham's call; if that were to happen, he doesn't think there is any impact on the community. Right now the swimming pool recreation area is where they have BBQs, music, and drink beer, etc., so when the tenants complain, they call the General Manager and bark at them, and there are sales going on; but it is not retail sales.

Commissioner Taylor referenced the idea of tearing that building down and doing something else with it, and asked why not build apartments there? Then we would have more than 80 units. Mr. Farhat stated that it would be wonderful, but he can't create a reassessment on Wyndham's timeshares, since the parking he would need would be on the other side of the property line. He didn't do the property lines; those were done beyond Luke or him and they had nothing to do with it. Audree Juhlin explained that the agreement when Mr. Farhat bought the property from Wyndham would have to be revised to allow him to have more parking in the Shared Parking Agreement, in order to construct more apartment units. Currently, he is restricted by that agreement.

Commissioner Currivan indicated that on the changes being instituted as a result of this plan, it seems that there are really two categories of changes. One is the change of use we've talked about, which is residential to commercial, and that is something that people who live in the surrounding area might have something to say about, that is with respect to people who are already there or with respect to the places that haven't been built yet, but it might have some impact on the value of those properties -- that is change of use. The other one is the change of mix within the apartments themselves, and that is going from the 3-bedroom to the one-bedroom. The Commissioner then asked if we have gotten any comments from any of the people who are affected by this in the immediate area, as to how they feel about the change in use to commercial and the change of mix to the 1-bedroom units.

Mr. Farhat stated that they had a public meeting that was properly noticed by staff and by them, and first of all, the people were pleased that they were going to build a building that is single-story, because it improves their view. Second of all, he believes one or two of them will be at the meeting on the 4th saying go ahead and build it, they have no objections. They had six speakers, but they told them to cut it down, because of the time. They received zero correspondence, and he will make sure that he reaches out to every single person who signed-in to tell them that there was a work session today and to please send comments if they have any. He doesn't think that the residents were upset, certainly the apartment dwellers weren't upset, and the timeshare people are very happy that a single-story building will be built in that spot rather than a two-story building.

Commissioner Currivan then asked if staff is aware of any complaints or comments by people in the surrounding area and Cari Meyer stated no, staff sent out a notice when the application came in, as well as one about two weeks ago, and she hasn't received any comments.

Commissioner Currivan then referenced the Development Agreement and indicated that it isn't clear to him why we have a Development Agreement that is apparently not being complied with, and asked if we are now contemplating entering into an amended Development Agreement. Cari Meyer explained that would have to be a part of this application; they would have to amend it in order for any of this to go through. Commissioner Currivan then

commented that one result of this application, if approved, would be an amended Development Agreement and Cari stated yes.

Chairman Losoff then stated that by the same token, if it is not approved, we should still have them comply with the Development Agreement, so one way or the other, they have to either meet the current one or comply with the new one. Audree clarified either comply or come in and modify it. Commissioner Currivan noted that addresses an earlier question about the pool and some people complaining that they are supposed to have the right to access the pool, but they don't. He doesn't think that is necessarily the Commission's purview to spend a lot of time on, but it is . . . Chairman Losoff interrupted to say that he isn't sure we should even wait for that; that is part of the agreement initially and it is probably not going to change in the future, unless we modify it perhaps. Audree Juhlin explained that it possibly could change in the future if it is approved and moves forward. We would change the Development Agreement to reflect the agreement that Mr. Farhat has with Wyndham and that Wyndham has with the single-family owners, and update it to say that a future recreation use would be available for . . . Chairman Losoff then interjected that the Commission will defer to staff on that then.

Commissioner Currivan then referenced the question on the 95% and indicated that he thinks somebody is going to show the Commission some numbers at some point. Audree indicated that is what staff keeps asking for. The Commissioner then noted that a lot of this planning seems to be based on the assumption that that number is correct, and for clarification, he thinks Mr. Farhat indicated that the number of square feet was increased to 6,900 sq. ft. Mr. Farhat stated yes, originally it was 4,500 sq. ft. and their current office on S.R. 89A is about 4,500 sq. ft., but when their construction development guys did a survey and showed them what they want to do with their new concept, they looked at what they would have to do to remodel the existing building on S.R. 89A to have about 6,900 sq. ft., they then asked to compare apples to apples and if they (the applicant) could change it quickly, like they did in the last three or four days, and that is how they ended up with that number.

Commissioner Currivan explained that he asked because the report says 7,400 sq. ft. and Mr. Farhat explained that they are building on the same footprint; they are not building bigger than the original footprint, so if they (the applicants) have a little 400 or 500 sq. ft. office just for apartment management, Wyndham would have 6,900 sq. ft., and the two together would be 7,400 sq. ft. Chairman Losoff stated to make sure it is clarified, so we have the same numbers for Tuesday's meeting, and Cari Meyer explained that the total number in the Staff Report is considering the proposed sales office and an office for the apartments.

Commissioner Taylor asked if that was recreation space for the apartments, that 500 sq. ft., because it says something about the recreation building, and Audree Juhlin explained that is for some outdoor BBQ areas.

Commissioner Currivan noted that the Staff Report also indicates that the current plan, as shown on the plat, would not meet Development Review requirements, and he thinks that has to do with the massing requirements, so he assumes there will be new plans proposed or some detailed plans to comply with the massing requirements. Cari indicated yes and explained that at the next stage of review, staff would be looking much more closely at all of the dimensions and how the massing is broken up. It is not necessarily required at this stage of review. We just provide them with information of what they would need to comply for the next go-around.

Chairman Losoff noted that the Commission isn't looking at any Development Review architectural drawings at this point; however, Cari noted that there is a Development Review portion of this application, but staff has concentrated most of the review on the uses, Development Agreement, etc., because things can change.

Vice Chairman Hadley asked Mr. Farhat, if it weren't for the agreement with Wyndham when this was purchased, would he rather build another apartment building and Mr. Farhat indicated that was their real intent; however, when they finished construction on a project in Vista

Montana, and he currently has one townhouse at the moment that is his unofficial management office, because no one thought about how someone would build 60 units and manage them, so if they could have done that, they probably would have come to the City. Before they purchased the property, they had meetings with John O'Brien and the City Attorney on many issues, because they didn't want to be in a position where they built other than the Development Agreement stated, and then be in conflict with the City. The Development Agreement was done in the infancy of the City and it wasn't probably the best work you could get. Vice Chairman Hadley again asked if Mr. Farhat would rather build the sixth apartment building and forget the commercial building and Mr. Farhat explained that he still wouldn't have an office, well he could, but he doesn't think that is an option.

Chairman Losoff summarized that some of the things the Commission wants for Tuesday's meeting is something on the 95% issue, and since it has been going on for a while and just about everybody has brought that up, that is very significant and without a clear answer on that, the Commission probably can't go too much further -- he guesses that is a deal breaker to some extent. Audree Juhlin pointed out that it raises a number of issues related to parking, in terms of bringing in a number of people that aren't staying there. The Chairman then indicated that if the Commission can't get a clear answer on that, it could be a cause for a continuance. The Commission also wants to see the original Development Agreement and Conditions of Approval.

Chairman Losoff then asked if this is rezoned Commercial, C-1; however, Cari Meyer explained that it would remain a PD and the Commission would be amending the PD. The Chairman then asked if they put the sales office in the middle and later decide to take that out, can the applicant put some other commercial function in there and staff stated no, and that would be put in the conditions. Mr. Farhat then added that they don't want that.

Chairman Losoff referenced the use of the amenities by all and indicated that regardless of which way this goes, that needs to be resolved, and we also talked about affordable housing and benefits. The Commission wants to make sure on Tuesday that we have an outline of specific benefits that this would provide to the City, if approved, plus a discussion about what is defined as affordable housing versus what the applicant defines as affordable housing, and if there are other issues related to it, such as in lieu of, etc. The Chairman referenced some specific comments made at the last City Council meeting regarding another project and that issue, so the Commission wants to make sure that we are in line and on the same page regarding that.

Commissioner Messer asked if staff thinks there are too many variables to even proceed at this point, because it seems that there are several things floating around and contingent upon this even working, but we forge on. Audree explained that staff is concerned about that and until Wyndham is at the table, a lot of the questions brought up can't be addressed. Once we get that, we might have a clearer understanding of what is being proposed, what exists and what is expected in the future, to have a better position on the approval or no approval. Chairman Losoff noted that he had the same thought, but in fairness to the applicant, their hands are tied regarding Wyndham, and until Wyndham is here that means that if the Commission isn't satisfied on Tuesday, we could continue it or deny it, etc., so it is not an automatic approval process on Tuesday. It would be good to have Wyndham at the table; the Engineering Department raised several questions related to Wyndham, and they are talking about the trip generation that shows only three trips per day with 10 people, so there are a lot of inconsistencies and until these things are clarified it is going to be difficult to go too far.

Commissioner Messer asked if he is correct in understanding that staff doesn't consider the benefits in the original proposal to have anything to do with what is in front of us now. Audree Juhlin stated that there are two different issues that are being considered -- what was approved in past and what is being approved now. The original approval did not provide for an onsite office in the middle of the project, and it did not include a reduction in the number of

apartments, so we need to look at it from that perspective now, but the Commission can consider what has been provided in the past by Fairfield. She doesn't remember there ever being an in lieu contribution for affordable housing, but that needs to be looked into. She does recall that they did a significant number of other community benefits as part of that approval, but they were related more to the timeshare use. One of the community benefits was the apartment units. The Commissioner then asked if the Commission could see those community benefits from the previous agreement for Tuesday, and Audree continued to explained that with the apartments being a community benefit, staff was naive at that time and did not put the affordable restriction on them, so Fairfield then tried to rent those units for \$2,000 to \$3,000 per unit depending on the size, and that was not the community benefit that we originally wanted, so there is some discretion and she thinks that Mr. Farhat is addressing it now in his proposal.

Chairman Losoff indicated that in fairness to the applicant, with all of the things being said and done, we probably could use a couple of more work sessions on this project. Audree noted that staff also is still confused. The Chairman then stated that since it is scheduled for Tuesday, we probably can't use it as a work session. If they have the right answers, then maybe that is enough, but it is a lot of information that the Commission needs for Tuesday, and there is a weekend to do it.

Cari Meyer pointed out that this is a Conceptual Review and the point of that is to bring out all of these issues, so this is exactly what . . . the Chairman interjected exactly and this is a very good work session, and he appreciates all that is going into it.

Commissioner Taylor indicated that if Wyndham is considering buying the building on S.R. 89A, why don't we just wait and see if they buy the building? Chairman Losoff indicated that is a decision that we can make, if we are so inclined.

Commissioner Currivan asked, on the subject of benefit to the community and affordable housing, especially in light of what was said at the City Council meeting, if the Commission is supposed to take as a given that creating lower rental units within the City is a community benefit? Is that simply a doctrine that it is a benefit or is that something that is open for discussion. Chairman Losoff stated that his own feeling is that it is open for discussion and in one of our future meetings, we should have a discussion as to the whole community benefit issue and how we want to approach it. It is too late to put on the agenda for Tuesday. Commissioner Messer then suggested having a separate work session on that topic.

Commissioner Brandt shared that when he goes past one of the timeshare offices in Uptown, it seems to degrade the commercial ambience in Uptown, so moving the office off of the highway and putting it in the middle of the works sounds like a reasonable thing to do to free up commercial space on the highway for pure positive commercial, and with that said, ultimately it comes down to giving up residential for more commercial, but if that residential cannot be built because of the parking requirements, then that's what we have to balance. Mr. Farhat indicated that they are gaining residential for giving up a location and enhancing traffic with better walkability. The Commissioner questioned gaining residential and Mr. Farhat stated that they are giving six more units. The Chairman clarified that we are gaining based on the original proposal, but we're still four units short. Commissioner Brandt then indicated that he thinks the applicant would do that regardless, and Mr. Farhat indicated that they will do that if staff will grant a minor modification, they will still do it anyhow. They would have to come back through again to do it though.

Commissioner Jablow asked, as far as the affordable housing component, how we keep that affordable housing for Wyndham's, or whoever it is, staff and not have them putting it out to the public for regular rental, but use it for their housekeeping staff. Commissioner Brandt asked if it isn't free market and Commissioner Jablow stated that is what he wants to know. Audree explained that as part of the Housing Policy, one of the major considerations is workforce housing and providing onsite housing for the workforce has been a priority, so if that is the case

and Mr. Farhat worked out a deal with Wyndham that they would like to see a number of units be available for staff, that would be providing a community benefit, if it is for the landscaping and housekeeping level of employees and not the upper management.

Chairman Losoff noted that the whole issue of in lieu of or what is affordable housing, or some other community benefits is something to address head on, and it is a good question as to who is to say that one is a benefit or not. Looking at the agenda, this item is the only thing on the agenda aside from Studio Live, so that shouldn't take any time. We should have as much time as we want to talk this through and see how forward we go with it and if we are going to be in a position to make a decision or not.

Mr. Farhat expressed his appreciation for the Commission's and staff's time and the Chairman noted that the Commission appreciated him answering the Commission's questions.

4. Introduction/discussion regarding the agenda items for the regularly scheduled meeting of Tuesday, July 2, 2013: (15 minutes; 4:25 – 4:40)

A. Discussion regarding a request for a Conditional Use Permit to operate a model home and sales office for the Rimstone/Cor D'Amor Subdivision at 170 and 125 Rimstone Circle. The subdivision is zoned RS-35 and PRD and both of the lots proposed to be used for model homes/sales offices are zoned RS-35. A general description of the area affected includes but is not limited to Navoti Drive between Foothills South Drive and Calle Del Sol. The lots are further identified as Assessor's Parcel Numbers 408-11-558 and 408-11-562. Applicant: Dorn Homes, Inc., Sherry Savage, 3950 S Camino Del Heroe; Green Valley, AZ 85614 Case Number: PZ13-00007 (CUP) Staff: Audree Juhlin, Assistant Director

Audree Juhlin noted that the applicant, Bob Decker, is present to represent Dorn Homes and the application is for a Conditional Use Permit to operate a model home sales office in the Cor D'Amor subdivision, but that is how the plat is recorded with the County, and they are calling it Rimstone now, so in all of the documentation, you will see Rimstone and Cor D'Amor. The zoning requires that a model home sales office go through a Conditional Use Permit and that is why the Commission is hearing it today. Staff doesn't necessarily agree with that; it is pretty simple from staff's perspective, but because it is required, staff is bringing it forward to the Commission for consideration.

Audree explained that the applicant is requesting to use two lots in the subdivision and the applicant brought a display. These lots are not owned by Dorn Homes; they are owned by Diamond Ventures, LLC, but they have gotten permission to use the two Lots 27 and 31, with Lot 27 being the first lot they are going to use.

Chairman Losoff asked for an explanation regarding the ownership and Audree pointed out the Diamond Ventures area and the Dorn Homes area. She then pointed out that a lot is in escrow to a new owner and being sold by Diamond Ventures. The Dorn Homes model home sales office will be on Lot 27 and the new owner has entered into a Lease Agreement with Dorn Homes to use the property until they move in around December of 2014. At that time, the new model home will be built and moved into by Dorn Homes on Lot 31; it is currently owned by Diamond Ventures, so that is the relationship.

The Chairman asked if those are two separate parcels and Audree explained that it is one PRD. It was approved as a Planned Residential Development, but Dorn Homes has purchased and has legal ownership of their lots. They will be using the two lots for their model home sales office to sell and build homes primarily on their own property; however, if someone wants to purchase a Diamond Ventures property and contract with Dorn Homes, they would also be building homes on those properties as well.

Chairman Losoff asked if each one of the two lots is sold, will they have to move to a third lot and Audree explained that they are only including two parcels at this time, because of the way

Dorn Homes sees that happening. The first model home until December of 2014, and then at that time the new model home will be constructed and ready to move into, and the new owner will move into the first phase as Dorn Homes relocates to the next unit, and they will use that model home sales office until the end of its use or until all of the lots are sold. The Chairman then indicated that even though Dorn Homes is the applicant, the CUP goes with the land and it is Diamond Ventures' property. Audree agreed and explained that is what the Commission is looking at today. We're waiting for the authorization by Diamond Ventures for those two lots.

Chairman Losoff then stated that even though Dorn Homes is here; we have to have something to verify that and Audree indicated yes. Staff has one Letter of Authorization now, but we need to get it for the second site, Lot 31, because that was added after the initial Letter of Intent came forward, so it is a little complicated, but it is pretty simple if you think about it.

Audree explained that they are proposing to operate their model home sales office seven days a week from 10:00 a.m. to 5:00 p.m. and primarily base their operation on appointments only; however, if you walk-in to see what they have to offer, they will accommodate those situations, although they primarily want to promote an appointment-only use. Commissioner Messer noted that they are pretty empty right now anyway; he thinks Lot 10 is the one tied up right now. Bob Decker stated that is correct and Audree agreed that there are not a lot of built sites there.

Commissioner Taylor asked if they can put a sign on the highway and Audree indicated that regarding the signage, they are proposing to put two signs on site where the model home sales office is located, then to provide direction to that site, they will put two additional signs. Audree then distributed a site plan of the lots and explained that not on S.R. 89A in the ADOT right-of-way, but off of Navoti Drive into the site, there will be two signs to provide direction. One is at Foothills South Drive and Navoti Drive and the other is where you turn off of Navoti Drive onto Cor D'Amor Circle, so it shows where to turn, so there would be two offsite directional signs.

Audree explained that the home is ADA-accessible and it has an ADA porta-potty and a handicapped parking space, as well as five other parking spaces, so parking isn't an issue; they have enough onsite parking and if they need additional parking, there is plenty of street parking, because it is kind of a ghost town right now. The handout shows the relationship of Dorn Homes with the rest of the property, the two model home sites and the signage.

Audree stated that the applicant held an open house on May 29th and had one couple show up. Their concern was primarily based on how they are going to make sure that they restrict or don't encourage traffic on Ruby Drive which goes into Bristlecone Pines, and that is why the applicant is proposing the two directional signs off of Navoti Drive.

Audree indicated that staff would like to include in the Conditions of Approval that if ADOT signage is required, the applicant will need to get with ADOT to obtain a right-of-way permit for that signage, if that would provide better direction for traffic through that portion and not through Bristlecone Pines. The condition will say that if we are having problems with directional signage, they will get a right-of-way permit from ADOT for that.

Audree stated that Dorn Homes did get an occupancy permit for a commercial use for the model home sales, so they are ready to go and have been operating on weekends through the month of May with a Temporary Use Permit allowing them to do it, and as of today, staff has received no complaints or concerns about the temporary use on the weekends during the month of May. They will continue in June on the weekends using a Temporary Use Permit and fundraising activities to allow the continued use of temporary home sales until they get a CUP, and it doesn't really relate to the CUP, but as far as the Temporary Use Permit process, there are a number of categories for which you can apply for a Temporary Use Permit, and for June they have applied to give back to the community too. Bob Decker indicated that they identified the Sedona Food Bank as one and Audree explained that they want to have an open house to provide fundraising events for non-profits in the community.

Chairman Losoff asked what duration they are requesting on their CUP and Audree explained that staff met with the applicant this morning, because that was one of the things that was still outstanding and they believe they can be in and out in less than four years, so they are asking for a four-year Conditional Use Permit at this time.

Staff noted that at this time, they have addressed all of staff's concerns; there were a number of outstanding issues in the packet and they have addressed every one of those to staff's satisfaction, and the Commission will be seeing that as it moves forward to the July 2nd hearing. The only other thing they need to do is provide the rest of the written authorizations from the property owners to use those sites and put fire extinguishers in the model homes.

Bob Decker summarized that they met this morning for a review and he gathered information to move forward with all of the requirements they are asking to be submitted by June 10th, and there were a few things that he thinks he helped Audree clarify.

Chairman Losoff asked what the value is of the homes being built and Bob Decker explained that they currently have four plans; they offer three plans on the 16 lots and the plan for model home that was just completed with a Certificate of Occupancy about a month ago on Lot 27 won't fit on those lots, so they have four plans now and they are developing two more, but on the 16 lots, the price range starts at around \$410,000 and goes up from there depending on the options, the house that went on Lot 27 is a larger home with a casita and sold for just under \$1 million, but the price range on those plans starts in the mid-\$500s.

Commission's Questions and Comments:

Commissioner Currivan noted that the owner is actually Diamond Ventures Opportunity Fund I, LLC, so that means they have a number of investors looking to make some money on this, which is fine. His question is if Diamond Ventures Opportunity Fund decides that it would be in its best interest to sell its entire holdings while all of this is still going on, he assumes that is something they could do. They would be free and not be restricted in any way by some agreement against selling their holdings, so if they were to do that and the model home on Lot 31 had not yet been built, would the new buyer be under any obligation to put a model home on Lot 31? Would that bind the new buyer or is that only binding to Diamond Ventures' Fund? Bob Decker indicated that he imagines that would only be binding to them with Dorn Homes.

Chairman Losoff indicated that is not his understanding; it usually goes with the land. Commissioner Currivan asked if it is a recorded agreement and Audree explained that this is a Conditional Use Permit that says Lot 27 will be a model home and Lot 31 will be a model home, and that Conditional Use Permit runs with the land. Commissioner Currivan explained that his question is doesn't that simply mean that the owner has the right under the CUP, but not the obligation to put the model home on Lot 31. The current owner, this Venture Fund, is asking for the right to put a model home on Lot 31. Audree clarified that Dorn Homes is asking with the permission of Diamond Venture Opportunity Fund to have the right to do so. If at some future point, Diamond Ventures doesn't want to do that, then the Conditional Use Permit would no longer be in place and the model home would not be used.

Commissioner Currivan stated that the applicant is Dorn Homes, not Diamond Ventures, so it is Dorn that is getting the Conditional Use Permit, and they will have a right to place a model home on land owned by Diamond. Audree agreed and stated that is why staff needs the Letter of Authorization from Diamond Ventures that says they agree to do that.

Commissioner Currivan then again asked if Diamond sold to a new buyer, it is correct that Dorn would still have a right to put a model home on Lot 31, and Audree indicated that she would say that the property owner at any time could say they no longer want to have it operate as a model home sales office and no longer allow that use, but the ability to do so exists.

Ron Ramsey agreed; you are trying to say does this make a commitment for all future property owners and the answer is the use permit is something which is granted to the property owner at

the time and it does run with the land, usually it is running with the land in favor of the property owners and the succession of property owners, because they want to do something special. If they decide to vacate it and just abandon it, they can certainly do that, so no they are not obligated to put up a model home on the property if they don't want to.

Chairman Losoff asked what the issue is and Commissioner Currivan indicated that he is just trying to figure out what would happen if the Venture Fund decided to sell the property. We think there is going to be a model home put on Lot 31, but he is wondering if that is necessarily going to be the case. Ron Ramsey again explained that if the current owner, the Venture Fund, sells it and the new owner doesn't want to follow through on the permit, then the permit lapses. Commissioner Currivan stated, so despite the fact that Dorn Homes is the applicant, Dorn doesn't have any rights against either Diamond or the future owner under the permit.

Chairman Losoff noted this is a Conditional Use Permit as opposed to a rezoning, which goes with the land. Ron Ramsey clarified that the permit goes with the land too, because you have had situations in the past, where you had use permits granted for a Farmer's Market or whatever and new owners have come in and they could still use that permit without going back through the process, but if they decide that they want to sell everything and the second model home isn't built, they are not obligated to build it. He would assume Dorn would have some other recourse as far as where they could go.

Audree Juhlin pointed out that is not being considered as part of this CUP; we are only looking at two lots for this CUP, so if they want to look at another lot, they will have to come back in to amend the CUP to another lot. Commissioner Currivan referenced Lot 31 and asked if Dorn has a contractual agreement with Diamond that a model home will be placed on Lot 31 and Bob Decker stated no. The Commissioner then stated it is just the expectation that it is going to happen and Bob indicated that is correct. Commissioner Currivan then stated that expectation would not be binding on any buyer.

Audree Juhlin pointed out that if by December of 2014, Dorn Homes had sold and built all of the units on their 16 lots, they would not have the need to even use Lot 31 as a model home, so it may never get to that if they are very successful.

Commissioner Taylor indicated that he doesn't see the point of the discussion. The model home and combined sales office has been common practice as far back as he can remember, and as long as there is adequate parking and they aren't going to cause a nuisance as the place develops, and he presumes the parking has been worked out. Audree indicated that is right and in the packet the Commission will get for the July 2nd public hearing, you will see that the site plan now shows where those parking spaces are located and five of them are onsite. The Commissioner indicated that he doesn't really care whether they build the model home or not; it does matter, it is in staff's lap. Audree explained that the Land Development Code requires that they go through the CUP process and that is why they are here today.

Commissioner Jablow indicated that he agrees with Commissioner Taylor and as long as staff is comfortable and all of the obstacles have been met, he is fine. Vice Chairman Hadley stated that he echoes what they said; other than the Land Development Code requirement, it just seems like a slam dunk.

Commissioner Messer indicated that his only question is about the signs going in and why there isn't one at the top where there is a traffic light. It seems that it would be a safer way of getting into Navoti, instead of people making a left coming down the hill. Bob Decker explained that it gets confusing coming in the higher end and it is becoming less of a ghost town. There are quite a few starts over this next month, but they do get a lot of drive-through traffic and people walking through the neighborhood. It is amazing how much inquiry they get by people coming into the area and seeing the model home sign on Navoti Drive and they come on down.

Commissioner Brandt indicated that since this is to be a residential home in the future is it possible at the staff level to reduce the requirement for parking, so they don't remove trees, etc.? They have the street to park on and there are no houses there now. Audree explained that this house was reviewed as a residential home right to the very end, so it has been reviewed from that perspective. It wasn't until the eleventh hour that it was identified as the model home, so at the very last minute, the use was changed and the only thing that was changed from the residential review was to require that they have ADA access inside the home to the commercial area they are calling the sales office, and then the ADA porta-potty outside. Those are the only things that are different from the residential review.

Commissioner Brandt indicated that he was under the impression that staff was requiring more parking and Audree explained that they were able to find the parking onsite without doing anything different to the site. The Commissioner then noted that the specs for landscaping seemed to be for Tucson like using grey boulders, etc.

Chairman Losoff indicated that he is not sure that it needs to be here, but it is because of the Code, so the Commission will do the best we can with this. He doesn't have any issues with it, but at the staff level, there could be a lot of activity going on Foothills South with Park Place across the street and this, so there could be a lot of construction traffic, and he would assume the City is on alert so if this gets congested, the City will be on top of it. Audree explained that staff will put part of those in the Conditions of Approval.

The Chairman pointed out that Tuesday's meeting is on June 4th at 5:30 p.m. and the next meetings are on June 13th, 18th, 27th and July 2nd. Audree indicated that June 27th and July 7th are for the current planning projects, but she doesn't know if the Community Plan will be coming forward on the earlier June date. Kevin Snyder explained that the Citizens Steering Committee will be bringing the Community Plan recommendation to the Commission early to mid-July, and we will start work sessions with the Commission; hopefully, we will have availability sometime during the rest of July, August or perhaps as late as September.

Chairman Losoff stated that he would like to see the June 13th or 18th used for a discussion on the issue of community benefits; however, Commissioner Messer indicated he would not be available on the 18th. Commissioner Brandt stated that he is not available on the 13th and Commissioner Currivan indicated that he would not be available on either date. Kevin indicated that if this is just for a brainstorming session and staff doesn't need to prepare anything, then we could do it Tuesday. The Chairman indicated that nothing needs to be produced, but he would suggest that the Commissioners look at discussion on community benefits in the third part of the City Council meeting on May 14th, and he would make that almost mandatory. Commissioner Currivan noted that he will not be available.

Audree Juhlin stated that the agenda will be revised to include a discussion on community benefits, and June 13th and 18th are dead dates; the 27th will be the work session for the July 2nd meeting.

5. Adjournment. (4:40)

Chairman Losoff called for adjournment at 5:23 p.m., without objection.

I certify that the above is a true and correct summary of the work session of the Planning & Zoning Commission held on May 30, 2013.

Donna A. S. Puckett, *Recording Secretary*

Date